

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

[1] JASON NIKDEL,)	
)	
Plaintiff,)	
)	
vs.)	Case No. CIV-21-135-G
)	
[1] ROBERT W. MOORE, individually;)	Case No. CJ-2021-50 (B)
and [2] BUTLER TRANSPORT, INC.,)	(Cleveland County District Court)
a foreign for-profit corporation,)	
)	
Defendant.		

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1441(b) and 1446, Defendants Robert W. Moore and Butler Transport, Inc. (“Defendants”), hereby give notice of removal of Case No. CJ-2021-50 (B), filed in the District Court of Cleveland County, State of Oklahoma, and styled: *Jason Nikdel, Plaintiff, v. Robert W. Moore, individually; and Butler Transport, Inc., Defendants*. In further support of removal, Defendants states:

I. RELEVANT FACTS

1. On January 19, 2021, Plaintiff commenced an action in the District Court for Cleveland County, State of Oklahoma, by filing a Petition in Case No. CJ-2021-50 (B), styled: *Jason Nikdel, Plaintiff, v. Robert W. Moore, individually; and Butler Transport, Inc., a foreign for-profit corporation, Defendants*. A copy of the District Court Docket is attached hereto. Docket Report [Ex. 1]. A file-stamped copy of the District Court Petition is also attached hereto. Petition [Ex. 2].

2. Attorneys Greg Keogh and Nathan D. Rex filed their Entries of Appearance on behalf of Plaintiff on January 19, 2021. Entries of Appearance [Exs. 3 - 4].

3. Two Summons were issued to on January 19, 2021. Docket Sheet [Ex. 1]. Butler Transport, Inc. was serviced with Summons via certified mail on February 1, 2021. Robert W. Moore has also been served with the Summons and Petition. This matter is being removed to federal court within 30 days after the Summons were issued.

II. REMOVAL FROM OKLAHOMA STATE COURT TO FEDERAL COURT

4. Section 1441(a) provides that “any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant . . . to the district court of the United States for the district and division embracing the place where such action is pending.” 28 U.S.C. § 1441(a). Section 1332(a) provides that federal district courts “shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between . . . citizens of different States.” *Id.* § 1332(a).

III. DIVERSITY OF CITIZENSHIP

5. According to Plaintiff’s Petition, he is a “resident of Edmond, Oklahoma, located in Oklahoma County, Oklahoma.” Petition, ¶ 2 [Ex. 2].

6. Robert W. Moore is a resident of Bulverde, Texas. Petition, ¶ 3 [Ex. 2].

7. Butler Transport, Inc. is a Missouri corporation with its principal place of business in Kansas City, Kansas. Petition, ¶ 4 [Ex. 2]; State of Kansas, Office of the Secretary of State, Business Entity Detail for Butler Transport, Inc., available at

<https://www.kansas.gov/bess/flow/main;jsessionid=1CD061FBBF55735BA5108A6D25D4A231.aptes03-inst1?execution=e1s5> (last visited Jan. 19, 2021) [Ex. 5].

8. Insofar as Plaintiff is a citizen of Oklahoma and Defendants are not citizens of Oklahoma, complete diversity of citizenship exists for purposes of 28 U.S.C. § 1332(a)(2).

IV. AMOUNT IN CONTROVERSY

9. In his state court Petition, Plaintiff alleges negligence and negligence per se against Defendants arising out of a motor vehicle accident that occurred on September 19, 2020, in Cleveland County, Oklahoma. Plaintiff alleges he sustained personal injuries is seeking damages in excess of Seventy-Five Thousand Dollars (\$75,000.00). Petition, ¶¶ 11, 26 [Ex. 2].

V. TIMELINESS OF REMOVAL AND CONSENT TO REMOVAL

10. Section 1446(b)(1) requires a notice of removal to be filed within thirty (30) days after a defendant's receipt of a copy of the initial pleading. 28 U.S.C. § 1446(b)(1). This Notice of Removal is being filed within thirty (30) days after the issuance of the Summons.

11. Contemporaneous with the filing of this Notice of Removal, Defendants will give written notice thereof to Plaintiff and file a copy of the Notice of Removal with the Clerk of the District Court of Cleveland County, Oklahoma.

WHEREFORE, for all the foregoing reasons, this case is removable pursuant to 28 U.S.C. § 1441(a) because this action is between a citizen of Oklahoma and a citizen of a

foreign state and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

Respectfully submitted,

s/ J. Derrick Teague

J. Derrick Teague, OBA #15131

Laura L. Eakens, OBA #20196

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**ATTORNEYS FOR DEFENDANTS,
ROBERT W. MOORE AND BUTLER
TRANSPORT, INC.**

CERTIFICATE OF SERVICE

I hereby certify that on February 19, 2021 I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing. Based on the records currently on file, the Clerk of Court will transmit a Notice of Electronic Filing to the following ECF registrant:

Greg Keogh

Nathan D. Rex

Parrish DeV Vaughn, PLLC

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ATTORNEYS FOR PLAINTIFF

s/ J. Derrick Teague

J. Derrick Teague